

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

UNITED STATES OF AMERICA

§

§

VS.

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Criminal Action H-20-CR-00455

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ZHENGDONG CHENG

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**ZHENGDONG CHENG'S FIFTH SUPPLEMENT TO  
MOTION TO REVOKE ORDER OF DENTENTION**

TO THE HONORABLE UNITED STATES DISTRICT JUDGE ANDREW S. HANEN:

ZHENDONG CHENG, Defendant, (“Dr. Cheng”) supplements his *Opposed Motion to Revoke Order of Detention* ([ECF No. 30](#)) as follows:

In its response, the Government alleged that the potential sentence for Dr. Cheng was one factor justifying his continued detention, arguing, “Cheng faces a lengthy prison sentence upon conviction, and simply has no motive to remain in the United States to stand trial.” ([ECF No. 32](#) at p. 6). In addition to dispositions in similar cases already cited by Cheng ([ECF No. 50](#)) as inconsistent with this argument, five other “China Initiative” cases have been dismissed in recent days on the Government’s motion. Among those was Tang Juan, who, as briefed previously, sought refuge in the Chinese consulate in San Francisco, but was released pending trial. See [ECF No. 30](#) at pp. 9-10.

The five dismissals came in: *United States v. Tang Juan*, No. 2:20-cr-00134JAM at [ECF No. 213](#) (E.D. Cal. July 23, 2021)(Mendez, J.); *United States v. Guan Lei*, No. 8:20-cr-00127-MWF at [ECF No. 225](#) (E.D. Cal. July 26, 2021)(Fitzgerald, J.), *United States v. Xin Wang*, No. 3:20-cr-00251-JD at [ECF No. 36](#) (N.D. Cal. July 23, 2021)(Donato, J.); *United States v. Chen Song*, at [ECF No. 134](#) (N.D. Cal. July 23, 2021)(Alsup, J.); and *United States v. Zhao Kaikai*, No. 1:20-cr-00187-JRS-TAB at [ECF No. 49](#) (S.D. Ind. July 26, 2021)(Sweeney, J.).

Although Judges granted motions to suppress statements by Tang Juan (*Juan*, supra at [ECF No. 157](#)) and Chen Song (*Song*, supra at [ECF No. 127](#)) for FBI agents' failures to mirandize the Defendants, it has been widely reported that the five cases were dismissed because an April 2021, FBI Counterintelligence Division / China Tech Transfer Analysis Unit draft analysis significantly undermined the theory of prosecution and became an issue in Tang Juan's case on the eve of trial. *See e.g.*, Nakashima, Ellen, and Nakamura, David. *U.S. drops cases against five researchers accused of hiding ties to Chinese military*, The Washington Post, July 23, 2021;<sup>1</sup> Jan Lee *U.S. dials back probe of Chinese scientists on visa fraud charges*, Reuters, July 23, 2021;<sup>2</sup> *See also Juan*, supra, at [ECF No. 195-1](#).

Like Dr. Cheng, Zhao Kaikai and Xin Wang were detained pending trial. Guan Lei was detained from September 2020, until May, 2021. Tang Juan and Chen Song were released pending trial over Government opposition. Now, these five cases have been dismissed by the Government under circumstances that raise questions about the basis upon which the charges were initially brought and detention sought. Dr. Cheng contends that it is important for this Court to consider the problems and dispositions with other "China Initiative" cases when evaluating the Government's stated reasons justifying Dr. Cheng's continued detention.

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<sup>1</sup> available at [https://www.washingtonpost.com/national-security/us-drops-cases-against-five-researchers-accused-of-hiding-ties-to-chinese-military/2021/07/23/54a8b268-ec04-11eb-8950-d73b3e93ff7f\\_story.html](https://www.washingtonpost.com/national-security/us-drops-cases-against-five-researchers-accused-of-hiding-ties-to-chinese-military/2021/07/23/54a8b268-ec04-11eb-8950-d73b3e93ff7f_story.html) (last viewed July 28, 2021)

<sup>2</sup> available at available at <https://www.reuters.com/world/us/us-seeks-dismiss-charges-visa-fraud-cases-chinese-researchers-2021-07-23/> (last viewed July 28, 2021).

**CONCLUSION**

Dr. Cheng requests the Court grant the Motion, revoke the detention order and release him upon appropriate conditions.

Respectfully Submitted,

**HILDER & ASSOCIATES, P.C.**

/S/ Q. Tate Williams

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing instrument has been served upon the Assistant United States Attorney for the government herein, via ECF contemporaneous with filing.

/S/ Q. Tate Williams

Q.Tate Williams